

## Hamilton County Board of Zoning Appeals - North District

July 20, 2004

Mrs. Johnson called the official meeting of the Hamilton County Board of Zoning Appeals - North District to order at 8:10 p.m.

Members Present: Tim Clark, Ron Hall, and Kristin Johnson. Absent: Frank Habig and Gerald Kirby.  
Also present: Charles E. Kiphart, Director; Randy Leerkamp, Legal Counsel; and Linda Burdett, Secretary.

Declaration of Quorum: Mrs. Johnson declared a quorum with three out of five members present.

Guests: See guest sheet.

Communications/Reports: None to present.

Approval of Minutes: Mrs. Johnson asked if everyone received a copy of the June 15<sup>th</sup> minutes. Can I have a motion?

Mr. Hall advised Mrs. Johnson that he was not at that meeting and we may have to delay the approval until the next meeting.

New Business: Mrs. Johnson continued with **NBZA-L.U.V.-0010-07-2004** a Land Use Variance concerning the use and construction of an accessory pole barn building for a landscaping service business; storage of truck, trailer, and tools; with some screened outdoor storage of plants and landscape materials. Also at the same time we will hear **NBZA-RV-0011-07-2004** a requirement variance concerning the reduction in lot size for a residential dwelling from the required 10 acre lot size down to 3 acres. There are three board members out of five present tonight. To approve your variance it would take all three of us voting in a positive form. If you would like to delay until next month when there is a full board here that is your privilege.

The petitioners both agreed to proceed.

**Shane Jones stated his name and introduced his wife, Kimberly,** for the record. We don't presently own the property. We are looking at putting a landscape business pole barn up on the property. I studied landscape architecture and natural resources. I have studied overseas. I have one year of my masters complete. This business has been open for two years. The services that we offer at the present time include doing hard scapes, patios, decks, landscape lighting, irrigation, and that sort of thing as well as the soft scapes and the plantings. We don't do any lawn maintenance at this time. Don't plan on doing any. We have a one ton dump truck, a trailer, a dingo - which is a mini-skid steer, a Ford tractor that comes with the property, and all the hand tools, wheelbarrels and stuff like that will be stored inside the proposed barn. We are looking for space to put some plant material out... not to grow plant material but to have 5.. 10 trees, shrubs, and that sort of thing so when I go buy something I can buy it in volume and get a better price. The

driveway coming off the existing drive would be gravel. The outdoor storage of gravel, mulch, soil, or hard goods would be put on the side of the barn and we would use the barn as a visual barrier. We would also do some nice landscaping on the front side to make the view back to the barn pleasing to some of the neighbors. I presently have four to five guys on one single crew. In the future we might have as many as two crews maximum. Normal starting time for us is 7:30 a.m. I am usually out there at 7:00 a.m. getting things loaded up and started so when they get there we can jump in the truck and go. We quit usually at 6:00 p.m. Time of year is usually late March after the ground thaws and we work all the way up until usually right after Christmas or when the ground freezes. No signage for the landscape business will be on the property. There will be no retail traffic business. I'm not going to have people coming to the house or to the barn or the grounds trying to buy plant material or doing any presentations or anything. One piece of signage that we will have on the barn itself is the "No employees" signage for their access into the barn. When they come to the barn, they will park their vehicle, I'll have everything ready in the morning, and they jump in the trucks. They will not access the building. It is a storage facility for the equipment and that's it. There is some parking for the employees.

Mr. Hall asked Mr. Jones where his office was now. (2) Will it remain? (3) The building will be for equipment storage only? And you will have outside storage for any working materials? (4) Will those be in three sided bins or just in piles?

Mr. Jones stated it was in his home in a subdivision. (2) My office will be in the home, yes. (3) Yes. I will have some room inside to put pallets of pavers. Gravel, mulch, soil, sand will be outside. (4) Starting out it will probably just be piles. As I get more money and more efficient it'll probably develop into a concrete pad with a timber back to it and sides.

Mr. Clark asked Mr. Jones if he intended for all of his outside storage to be directly behind the barn. (2) Do you have anything planned for the south side of the property adjoining your neighbors?

Mr. Jones stated it would not be scattered out across the field. There will not be anything past the barn except the trees and shrubs. And I'll probably do lines out there. (2) It will just be open lawn.

Mrs. Johnson stated there was an existing house and septic on the property. (2) Is that where you're planning to live?

Mr. Jones stated that was correct. (2) Yes.

Mr. Hall asked for clarification that Mr. & Mrs. Jones would be moving to this property. (2) So your office will be in this house? (3) Will you have office employees?

Mr. & Mrs. Jones both answered yes. (2) Correct. (3) No. Just Mrs. Jones.

**Mrs. Jones** stated that she was an only child. My parents are getting ready to retire. Currently they live in a home that is multi-level. We want to give them the ability to live near us so that as they become elderly I can care for them and what better place than a 20 acre lot. The whole idea is rather than having them have the whole 10 acres is to reduce the lot size down to a three acre lot. They would actually build a home there

and maintain it. If they can't live somewhere near us... at some point they will probably have to live with us.

Mr. Jones stated he thought there was a road frontage issue of 150 ft.

Mrs. Johnson asked how many feet were in the road frontage all together.

Mr. Jones stated 610 ft. He believed.

Discussion followed regarding the configuration of the land split. It was a consensus of the board and the petitioners that the "pan-handle" area was being removed and the property squared-off.

After minimal comments... Mrs. Johnson opened the hearing to the public at 8:31 p.m. and with no one stepping forward to address the board... Mrs. Johnson closed the public portion of the hearing at 8:31 p.m.

Mr. Hall **moved to approve** the Land Use Variance for the landscape business conditioned on the use during the ownership of the Jones' and it would expire when they sold the property.

Mrs. Johnson seconded.

After minimal comments... Mr. Leerkamp advised the board that the Plan Commission voted 5 yes.. 0 no.. 1 abstention... and found the use to be consistent with the Comprehensive Plan.

With nothing further... Mrs. Johnson called for the vote. **3 yes votes... 0 no votes.**

Mr. Hall **moved to approve** as presented. [ This was for the **NBZA-RV-0011-07-2004** request. ]

Mr. Clark seconded.

Mr. Hall stated that since this is immediately adjacent to other properties with three acres each and this is contiguous... I think it's reasonable.

Mr. Clark agreed. The problem I have with it is it was easily possible to make it closer to 10 acres each. But as you stated it is compatible with the other lot sizes.

Mrs. Johnson stated she didn't have a problem with it because it is close to other properties that are similar in size and with their business out there I think they will have to have that many acres to make all of that work out nicely.

Mr. Hall stated that he sees this as attempting to preserve a larger parcel 90 % of which maintains the wooded area. I would hope that owners in the future would want to maintain that parcel as a wooded unit.

After minimal comments... Mrs. Johnson called for the vote. **3 yes votes... 0 no votes.**

Mrs. Johnson moved on to **NBZA-RV-0012-07-2004** a requirement variance concerning the reduction in lot size for a residential dwelling from the required 10 acres down to 5 acres. Would the petitioner please come forward and state your name and address for the record and explain your petition. Same as the other petitions, there are only three board members present tonight so it will take a unanimous vote from the board present to approve your petition.

Richard Harvey stated he would proceed.

**Richard and Dianna Harvey, of 429 East 246<sup>th</sup> Street, Sheridan,** stated their name and address for the record. We live on a 10 acre parcel with an adjoining 15 acre parcel. We originally split the 25 acres to build a house on 10 acres. We are wanting to split 5 acres off the north end of the 15 acre property in order for my parents to build a house on that property. My wife has brain cancer and we have five children. Her illness is advancing to a point that we are needing more assistance and my parents are willing to do that. I will be the one to help my parents as they advance in age. My dad's sister lives next door to the part where their house would be located and she is elderly and they are wanting to help her out as well.

Mr. Hall asked if there were any houses on the property now. (2) What will happen to the 10 acres left out of the 15?

Mr. Harvey answered no. It is currently farmed. (2) It will be farmed.

After minimal comments... Mrs. Johnson opened the hearing to the public at 8:43 p.m. and with no one stepping forward to address the board... Mrs. Johnson closed the public portion of the hearing at 8:43 p.m.

Mr. Hall **moved to approve** as presented.

Mr. Clark seconded.

Mr. Hall stated that he really supported what they were doing here from the standpoint on the southern most parcel they own, they have carved part of that into a home and yard, and the balance of that is being farmed and apparently that is what they are going to be doing with the additional 5 acres. I'm glad to see somebody taking advantage of the way the ordinance is constructed so that they don't automatically assume that because they have a certain size property that all of it has to be in yard or something like that. You can have different uses, as long as they are permitted uses in zoning, that make up a single parcel. And I'm glad to see that happen here.

With no further comments... Mrs. Johnson called for the vote. **3 yes votes... 0 no votes.**

Old Business: None to present.

Director's Report: Mr. Kiphart stated that we would have a display for the plan commission set up out at the fair in the county's tent. Mr. Settles has done a real good job as usual. The next public meeting for the update to the comprehensive plan is Thursday, August 05, 2004 from 7:00 p.m. to 9:00 p.m. at the 4-H Building, Hall B. We sent special invitations out to well over 200 people. Hopefully we will improve our

attendance. Please fill out the questionnaire that is included. We are mailing those out and it will be on our website also.

Legal Counsel Report: Nothing to present.

The next North BZA meeting will be held August 17, 2004.

With nothing further to come before the board... Mrs. Johnson asked for a motion to adjourn.

Mr. Hall **so moved**.

Mr. Clark seconded.

With no further comments... Mrs. Johnson called for the vote. **3 yes votes... 0 no votes.**

Meeting adjourned at 8:49 p.m.

---

Kristin Johnson, Vice Chairman

---

Date

---

Linda Burdett, Secretary

---

Date